

Title 6

ANIMALS

Chapters:

- 6.04 Animal Control**
- 6.08 Animal Kennels**
- 6.12 Care, Keeping and Sale of Animals and
Domestic Fowl**
- 6.16 Livestock and Domesticated Hoofed
Animals**
- 6.20 Wild Animals**
- 6.24 Pigeons (Columbidae), Wild Pigeons and
Wild Birds**

Chapter 6.04

ANIMAL CONTROL

Sections:

- | | |
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| <p>6.04.010 Definitions.</p> <p>6.04.020 Jurisdictional area.</p> <p>6.04.030 Dogs and other animals prohibited on certain public property—Exceptions.</p> <p>6.04.040 Female dog unconfined.</p> <p>6.04.050 Harboring dangerous animal.</p> <p>6.04.052 Dangerous animals—Impoundment procedure.</p> <p>6.04.054 Dangerous animals—Confinement.</p> <p>6.04.060 Barking dogs.</p> <p>6.04.070 Injury to property.</p> <p>6.04.080 Chasing vehicles.</p> <p>6.04.090 Jumping, barking and snapping at and biting pedestrians.</p> <p>6.04.100 Stray dog or animal running at large.</p> <p>6.04.110 Freeing confined animals.</p> <p>6.04.120 Provoking animals.</p> <p>6.04.130 Cruelty to animals—Poisoning.</p> <p>6.04.135 Abandonment or abuse of animals.</p> <p>6.04.140 Abandonment of disabled animals.</p> <p>6.04.150 Dog license—Required.</p> <p>6.04.155 Dog shows or dogs assisting sight or hearing impaired persons.</p> <p>6.04.160 Dog license—Fee.</p> <p>6.04.170 Dog license—Date due—Penalty for nonpayment—Rabies vaccination (Effective January 1, 1991).</p> <p>6.04.180 Dog license—Information required on application.</p> <p>6.04.190 Reserved.</p> <p>6.04.200 Dog shows, seeing-eye and hearing dogs.</p> <p>6.04.210 Dog tag—Collar or harness.</p> | <p>6.04.220 Unlicensed dogs—Impoundment authorized.</p> <p>6.04.230 Animal warden—Position established—Appointment.</p> <p>6.04.240 Impounded dogs or cats—Keeping of records and statement of costs.</p> <p>6.04.250 Impounded dogs or cats—Notice of euthanization of animal—Mandatory fees for adoption of animal—Euthanization of dangerous animal.</p> <p>6.04.260 Impounded dogs or cats—Collection of fees from owner.</p> <p>6.04.270 Leash required—Penalty for violation.</p> <p>6.04.275 Animal waste—Removal.</p> <p>6.04.280 Failure to have leash—Impoundment.</p> <p>6.04.292 Vaccination for rabies.</p> <p>6.04.294 Rabies—Post-exposure management—Impoundment procedure—Quarantine.</p> <p>6.04.296 Rabies diagnosis—Emergency control.</p> <p>6.04.300 Enforcement authorized.</p> <p>6.04.310 Powers imposed to apply to deputies and other persons authorized by law.</p> <p>6.04.320 Furnishing notices to appear.</p> <p>6.04.330 Violators to report within limited time.</p> <p>6.04.340 Violation—Penalty.</p> |
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- 6.04.010** **Definitions.**
- Within the provisions of this chapter the following definitions shall apply:
- A. “Abused animal” means any domestic animal which (1) is mistreated, beaten, tormented or teased, or (2) is deprived of water or food or shelter, or (3) is kept under unsanitary conditions, or (4) is abandoned, or (5) is trained for fighting other animals.
- B. “Animal” means any living vertebrate creature, whether wild or domestic.

C. “Animal shelter” means the place provided by the animal warden for the impounding of dogs and other animals. Such shelter shall be so constructed that animals of different kinds and of different sizes and sexes may be segregated, and shall be maintained in a safe and sanitary condition. Such shelter may either be constructed and operated by Butte-Silver Bow, or the government may enter into a contract with the Silver Bow Humane Society or other suitable person for the supplying and operation of the same. All animals confined in such shelter shall be regularly fed and watered and treated in a humane manner.

D. “At large” means off the premises of the owner or keeper of the dog or other animal, and not under restraint by leash or not otherwise controlled by a competent person.

E. “Butte-Silver Bow” means the local government of the city and county of Butte-Silver Bow, Montana and includes all that area within the city and county of Butte-Silver Bow.

F. “Cat” means any commonly domesticated feline animal.

G. “Dangerous animal” means any animal which constitutes a physical threat to human beings or domestic animals by virtue of a known propensity to endanger life by an unprovoked assault or bite so as to cause serious bodily harm. An animal trained, owned or harbored for the purpose, primarily or in part, of animal fighting. Exceptions: An animal shall not be deemed dangerous if: (1) it bites, attacks or menaces (a) anyone assaulting the owner, or (b) a trespasser on the property of the owner, or (c) any person or other animal who has tormented or abused it, or (2) it is otherwise acting in defense of an attack from a person or other animal upon the owner or other person, or (3) it is protecting or defending its young or other animal.

H. “Dog” means any commonly domesticated canine animal.

I. “Domestic animal” means any animal which is tame by nature and includes dogs and cats and livestock.

J. “Humane society” means the Silver Bow Humane Society, a Montana nonprofit corporation.

K. “Leash” includes leashes, cords, ropes, chains or other similar devices of suitable strength to humanely restrain the dog to which attached.

L. “License” means the current year registration issued by the treasurer for a specific dog for the fee set out in Section 6.04.160 and includes:

1. A metallic tag stamped with an identifying serial number, which tag is to be attached to the collar or harness worn by the dog; and

2. A certificate which bears the same serial number as the metallic tag and contains the name and address of the owner of the dog, a description of the dog, and the date the dog was last vaccinated for rabies. The date of rabies vaccination must be verified by a certificate of vaccination issued by a veterinarian.

M. “Livestock” means any commonly domesticated hooved animal kept on a farm or ranch or raised for sale and profit.

N. “Muzzle” means a device fastened over the mouth of an animal to prevent its biting.

O. “Owner” means any person, firm, or corporation owning, having an interest in, having control, or having custody or having possession of any dog or other animal.

P. “Parking commission” means and includes the office of the parking commission of the city and county of Butte-Silver Bow, First Floor, Butte-Silver Bow Courthouse Building.

Q. “Person” includes any person, partnership, corporation, trust or association of persons.

R. “Stray dog” includes any dog or other animal loitering in a neighborhood or any public place without an apparent owner or home.

S. “Time period” shall begin with the issuance of a citation for violation of any provision of this chapter and shall continue for the time set out in the specific section. Any subsequent citation shall begin the time period anew.

T. “Treasurer” means and includes the office of the treasurer of the city and county of Butte-Silver Bow, Room 206, Second Floor, Butte-Silver Bow Courthouse Building.

U. “USDA” means the United States Department of Agriculture.

V. “Vaccination” means the inoculation of an animal with antirabies vaccine and administered under the supervision of a licensed veterinarian in accordance with the current edition of the “Compendium of Animal Rabies Control,” published by the National Association of State Public Health Veterinarians, Inc.

W. “Veterinarian” is a person licensed to practice veterinary medicine in the state of Montana pursuant to Chapter 18 of Title 37, MCA.

X. “Wild animal” means any animal or reptile which is wild by nature and is not commonly domesticated. Offspring of wild animals bred with domestic dogs or cats are considered wild animals.

Y. The present tense shall include the past, future, and the present tense. Each gender shall include all genders.

Z. The singular number shall include the plural, and the plural the singular. (Ord. 370 § 1, 1990; Ord. 133 § 3 (A—K), 1981)

6.04.020 Jurisdictional area.

A. It is unlawful for any person owning or having in charge any dogs or other animals, to allow the same to run at large within the following area of Butte-Silver Bow excluding the territorial limits of the city of Walkerville:

Beginning at the northwest corner Section 2, T. 3N., R. 8 W., thence easterly to northeast corner Section 5, T. 3 N., R. 7 W.; thence southerly to northwest corner Section 9, T. 3 N., R. 7 W.; thence easterly to northeast corner Section 10, T. 3 N., R. 7 W.; thence southerly to southeast corner Section 22, T. 2 N., R. 7 W.; thence westerly to southwest corner Section 19, T. 2 N., R. 7 W.; thence northerly to northwest corner Section 19, T. 2 N., R. 7 W.; thence westerly to southwest corner Section 14, T. 2 N., R. 8 W.; thence northerly to southwest corner Section 35, T. 3 N., R. 8 W.; thence westerly to southwest corner Section 34, T. 3 N., R. 8 W.; thence northerly to northwest corner Section 27, T. 3 N., R. 8 W.; thence westerly to southwest corner Section 20, T. 3 N., R. 8

W.; thence northerly to northwest corner Section 17, T. 3 N., R. 8 W.; thence easterly to northwest corner Section 14, T. 3 N., R. 8 W.; thence northerly to the point of beginning.

B. These boundaries are noted to be conterminous with those of the fire protection services district provided in Section 7.03(g)(1) of the charter of Butte-Silver Bow and codified in Section 2.16.020(B), Butte-Silver Bow Municipal Code. (Ord. 02-1 § 1, 2002; Ord. 138 § 1, 1981; Ord. 133 § 1, 1981)

6.04.030 Dogs and other animals prohibited on certain public property— Exceptions.

A. It is unlawful for the owner of any dog or other animal to permit the same, whether restrained or unrestrained, to be on or in any park; to enter any public pond, fountain, or stream in a public park; or to enter any public playground, school ground, or any public building. Any dog or other animal so entering or trespassing on any such property is declared to be a nuisance and shall be immediately seized and impounded unless: (1) an applicable permit has been issued by the park and recreation board as set out in subsection B; (2) the dog is assisting a sight or hearing handicapped person or (3) is being used in law enforcement as set out in subsection C.

B. A permit for organized animal obedience training or animal shows may be granted for use in designated areas of designated public parks on designated days. The permit shall be obtained from the park and recreation board. The permit shall be in writing and shall designate the public park, area of the park, the dates and the duration of the permit. A fee of one hundred fifty dollars shall be collected for each permit approved for each event. The park and recreation board may require that a bond be posted depending upon the type of event, the number of participants, and the location where the event is held.

C. Seeing eye dogs and hearing dogs (when being used for the purpose of assisting sight or hearing impaired persons) and dogs being used in law enforcement work are excluded from this section.

D. Upon conviction, the minimum fine for violation of this section shall be made on a graduated basis within a two-year period as follows: first offense, fifty dollars; second offense, one hundred dollars; third and each subsequent offense, two hundred dollars. (Ord. 370 § 2, 1990: Ord. 138 § 2, 1981: Ord. 133 § 3, 1981)

6.04.040 Female dog unconfined.

It is unlawful for any owner to permit any female dog to be unconfined while in heat, (i.e. while in the estrus period) whether or not such animal is licensed. The owner shall confine such dog in a house, garage or other building and in such a manner as to eliminate the congregating of other dogs in the immediate vicinity of the female. Any such animal not so confined during such period is declared to be a nuisance and may be seized and impounded if the animal is not immediately confined by the owner.

Upon conviction, the minimum fine for violation of this provision shall be made on a graduated basis within a two-year period as follows: first offense, fifty dollars; second offense, one hundred dollars; third and each subsequent offense, two hundred dollars. (Ord. 370 § 3, 1990: Ord. 133 § 5, 1981)

6.04.050 Harboring dangerous animal.

A. It is unlawful for any owner to keep, harbor, or maintain any dangerous animal at any time off the premises of the owner unless the animal is securely muzzled as provided in Section 6.04.054 or to maintain such animal in such a manner as to endanger the safety of persons lawfully on the premises of the owner.

B. A person is lawfully upon the private property of such owner within the meaning of this section when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States of America or when he is on such property as an invitee or licensee of the person lawfully in possession of the property.

C. Upon conviction, the minimum fine for violation of this section shall be made on a graduated basis within a three-year period as follows: first of-

fense, one hundred dollars and said dog shall be ordered confined at all time; second offense, two hundred fifty dollars and said dog shall be turned over to the animal warden for disposal. (Ord. 370 § 4, 1990: Ord. 133 § 6, 1981)

6.04.052 Dangerous animals— Impoundment procedure.

A. Whenever an affidavit is made before the animal warden or the police judge that any dog or other animal has bitten a person and that the person bitten was not at the time trespassing upon the property of, or injuring or attempting to injure the person, family or property of the owner, the animal warden or police judge shall issue an order requiring the owner of such dog or other animal to surrender the same to the animal shelter for quarantine within twenty-four hours after service of the order. If the owner chooses, and at the sole expense of the owner, the animal may be quarantined at a licensed veterinary hospital instead of at the animal shelter. The order for quarantine may be served by the animal warden or any law enforcement officer and, if the owner cannot be found at his place of residence, the order may be served by leaving it with a person of suitable age and discretion at the residence, or by placing it in a prominent place at the front door of such residence. It is unlawful for any person to refuse or neglect to surrender any such dangerous animal to the animal shelter or a licensed veterinary hospital within twenty-four hours after the service of such order as provided in this section, and upon such refusal or neglect the animal warden shall forthwith seize the animal and impound it at the animal shelter at the owner's expense. In the event that the owner is unknown, upon the making of such affidavit, the animal warden or any law enforcement officer shall seize such animal without notice and impound it at the animal shelter.

B. A healthy dog or other animal impounded under this section for biting a person shall be quarantined in the animal shelter (or a licensed veterinary hospital) at the owner's expense and shall be confined and observed for ten days and evaluated by

a veterinarian at the first sign of illness during confinement. Any illness in the animal should be reported immediately to the local health department. If signs suggestive of rabies develop, the animal should be humanely killed, and its head removed and shipped under refrigeration for examination by a qualified laboratory designated by the local or state health department.

C. Any stray or unwanted dog or other animal that bites a person may be killed immediately and the head submitted as described above for rabies examination.

D. Wild carnivorous mammals and bats (as well as the offspring of wild animals crossbred with domestic dogs and cats) that bite people should be killed and the head submitted as described above for rabies examination.

E. No dangerous animal impounded under this section may be released from quarantine from the animal shelter (or a licensed veterinary hospital) without the written authorization of the police judge. No dangerous animal shall be released without the owner providing proof that the animal is currently vaccinated for rabies as set out in Section 6.04.292. If the dangerous animal was not vaccinated for rabies at the time the person was bitten, the animal warden shall contact a licensed veterinarian to have the animal euthanized immediately and the head submitted as described above for rabies examination.

F. In those cases where the police judge authorizes the release of the dangerous animal to the owner, the animal shall not be released until the owner pays the impounding fees as provided in this chapter, including applicable licensing fees for such dog.

G. If the dangerous animal is not claimed by the owner, the animal shall be disposed of by the animal warden and shall not be adopted by any other person.

H. Any person may protect his pets, his property, his person, or the person of any other human being from the attack of a dangerous dog or other animal by force, even to the extent of slaying the same, if reasonably necessary. (Ord. 370 5, 1990)

6.04.054 Dangerous animals— Confinement.

The owner of a dangerous dog or other animal shall confine such dog or other animal within a building or secure enclosure and shall not take such dog or other animal out of such building or enclosure unless it is securely muzzled. (Ord. 370 6, 1990)

6.04.060 Barking dogs.

It is unlawful for any owner to allow any dog to stay about any premises occupied or controlled by him, which dog by loud and continuous barking, howling or yelping constitutes an annoyance or disturbance to the neighborhood or to any considerable number of persons. Any such dog creating such disturbance is declared to be a nuisance. Before any prosecution is brought, however, the complaining party or parties must notify the owner by registered mail, at the same time delivering a copy of the notice to the law enforcement department, that the dog is creating a disturbance and is, therefore, a nuisance, and that unless such nuisance is abated within three days after receipt of such notice, a complaint will be filed against the owner. After such three-day period, a complaint may be filed against the owner for any further annoyance or disturbance caused by such dog. (Ord. 370 7, 1990: Ord. 133 7, 1981)

6.04.070 Injury to property.

It is unlawful for any owner to suffer or permit any dog or other animal to trespass on private or public property so as to damage or destroy any property or thing of value, and the same is declared to be a nuisance and any such animal may be seized and impounded. (Ord. 133 8, 1981)

6.04.080 Chasing vehicles.

It is unlawful for any owner keeping or harboring any dog or other animal to suffer or permit such dog to chase, run after or jump at vehicles lawfully using the public streets, avenues, alleys and ways within Butte-Silver Bow and the same is declared to be a nuisance, and any such dog or other animal may be seized and impounded. (Ord. 133 9, 1981)

6.04.090 Jumping, barking and snapping at and biting pedestrians.

It is unlawful for any person to keep or harbor any dog, not constituting a vicious or dangerous dog, or any other animal that bites any person or frequently or habitually snarls, growls, or barks at or snaps at or jumps upon or threatens persons lawfully upon the public sidewalks, streets, alleys or other public places of Butte-Silver Bow, and the same is declared to be a nuisance, and any such dog or other animal shall be immediately seized and impounded. (Ord. 138 3, 1981; Ord. 133 10, 1981)

6.04.100 Stray dog or animal running at large.

Any stray dog or other animal running at large within Butte-Silver Bow is declared to be a nuisance, and any such stray dog or other animal may be seized and impounded. (Ord. 370 8, 1990; Ord. 133 11, 1981)

6.04.110 Freeing confined animals.

It is unlawful for any person to open gates or doors or otherwise cause or permit dogs or other animals to escape confinement against the wishes of the owner. (Ord. 133 12, 1981)

6.04.120 Provoking animals.

It is unlawful for any person to provoke, harangue, tease, torment or in any way disturb a dog or other animal with the intent to cause it to bark or attack any person. (Ord. 133 13, 1981)

6.04.130 Cruelty to animals—Poisoning.

It is unlawful for any person to wilfully and cruelly inflict pain upon or injure any dog or other domestic animal. It is unlawful for any person to lay out or expose any poison for the purpose of killing or harming any dog or other domestic animal, or to aid or abet any person in so doing. (Ord. 370 9, 1990; Ord. 133 14, 1981)

6.04.135 Abandonment or abuse of animals.

A. It is unlawful for anyone to knowingly abandon or abuse any domestic animal within the county.

No owner or person in charge of an animal shall fail to provide such animal with sufficient good and wholesome food and water, proper shelter and protection from weather. No person shall beat, ill treat, torment, overload, overwork or otherwise abuse any domestic animal. No owner of an animal shall abandon such animal.

B. Each person who does abandon or abuse knowingly, or who willingly permits this abandonment or abuse or who aids in the abandonment or abuse of any domestic animal shall be in violation of the law and shall be punished as hereinafter provided.

C. Each offense shall be punished with a fine of the maximum amount allowable by law. (Ord. 370 10, 1990)

6.04.140 Abandonment of disabled animals.

Every person being the owner, or in possession or having charge or custody of a maimed, diseased or infirm dog or other animal, who abandons and leaves such animal to die on any street, highway, or public place, is guilty of a misdemeanor and such animal may be killed by the sheriff or any law enforcement officer or animal warden in a humane manner, and the owner shall be liable for the necessary care of such animal while living, and for the cost of disposing of the carcass. (Ord. 133 15, 1981)

6.04.150 Dog license—Required.

It is unlawful for any person, firm or corporation to own, keep or have control of any dog over the age of six months in Butte-Silver Bow unless that person, firm, or corporation procures a license therefor as hereinafter provided. Dogs becoming six months of age during the year shall be licensed as provided in this chapter. Dog licenses may be purchased from either the treasurer or the animal shelter. Impounding and boarding fees shall be paid to the animal shelter. Cash bail in accordance with established bond schedules may be posted at either the animal shelter or the office of the parking commission in lieu of appearance in city court for violation. (Ord. 133 16, 1981)

6.04.155 Dog shows or dogs assisting sight or hearing impaired persons.

A. No license shall be required for dogs brought into the city-county for the purpose of participating in any dog show; but such dogs must be vaccinated as required by Section 6.04.292.

B. Licenses shall be required for dogs trained to assist sight or hearing impaired persons, when such dogs are actually being used by sight or hearing impaired persons, but the fees provided for in Section 6.04.160 shall be waived; but such dogs must be vaccinated as required by Section 6.04.292.

C. Licenses shall be required for dogs trained to assist law enforcement officers, but the fees provided for in Section 6.04.160 shall be waived; but such dogs must be vaccinated as required by Section 6.04.292. (Ord. 370 12, 1990)

6.04.160 Dog license—Fee.

The annual license fee for each dog shall be five dollars. (Ord. 370 13, 1990: Ord. 133 17, 1981)

6.04.170 Dog license—Date due—Penalty for nonpayment—Rabies vaccination (Effective January 1, 1991).

A. All licenses granted under this chapter shall be due and payable annually on the first day of January. If the license fee above provided for is not paid on or before February 1st of each year, a penalty shall be imposed, and the license fee shall be increased to seven dollars and fifty cents. All licenses issued under the provision of this chapter shall expire on December 31st of each year; provided the applicant shall not pay the penalty fee if:

1. He has been a resident of Butte-Silver Bow thirty days or less; or
2. He has owned, kept or been in control of the dog thirty days or less; or
3. The dog, at the time of the application for license, is seven months of age or less.

B. Dogs must have a current certificate of vaccination for rabies issued by a veterinarian before a license may be issued. Such certificate is current if

the vaccine was administered by a veterinarian according to the following schedule:

1. The first antirabies vaccine shall be administered when the dog is three months of age;
2. The second antirabies vaccine shall be administered twelve months after the first vaccination;
3. All subsequent antirabies vaccinations shall be administered every twenty-four months. (Ord. 370 14, 1990: Ord. 133 18, 1981)

6.04.180 Dog license—Information required on application.

The owner shall, at the time of application for a license, state upon the application form the name and address of the owner, and the name, breed, color, sex and age of the dog. (Ord. 370 15, 1990: Ord. 133 19, 1981)

6.04.190 (Reserved)

6.04.200 Dog shows, seeing-eye and hearing dogs.

The provisions of this chapter with respect to registration and licensing shall not apply to dogs brought into the jurisdictional area for the sole purpose of participation in any dog show, nor to seeing-eye dogs trained to assist blind persons, when such dogs are actually being used by blind persons, nor to “hearing dogs” when such dogs are actually being used for deaf persons. (Ord. 133 20, 1981)

6.04.210 Dog tag—Collar or harness.

Upon receipt of a proper application, proof of vaccination, and the license fee, the treasurer shall issue to the applicant a license certificate and metallic tag. The shape of the tag shall be changed each year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every owner is required to provide each dog with a substantial collar or harness, to which the license tag shall be affixed at all times. Except as provided in Section 6.04.155, any dog found off the owner’s premises without a license tag shall be deemed to be not licensed, even though a license has been issued for such dog. In the event that

a dog tag is lost or destroyed, a duplicate shall be issued by the treasurer upon presentation of an affidavit to that effect, along with a receipt or duplicate receipt showing payment of the license fee for the current year, and the payment of one dollar for such duplicate. License tags are not transferable from one dog to another and it is unlawful for any person to cause or permit a license tag to be placed upon a dog for which it was not issued. Any dog found with a license tag issued for another dog shall be deemed to be not licensed. No refunds shall be made on any dog license fee because of the death of the dog or because the owner left the city-county before the expiration of the license period. (Ord. 370 17, 1990: Ord. 133 21, 1981)

6.04.220 Unlicensed dogs—Impoundment authorized.

It is unlawful for any person to keep, harbor, maintain, or feed any dog for which no current license has been obtained, or upon which no tag has been placed and kept as required by this chapter. The animal warden, his assistants, or any law enforcement officer shall have the authority to seize and impound any dog not currently licensed and tagged, and to dispose of such dog as provided in this chapter. (Ord. 370 18, 1990: Ord. 133 22, 1981)

6.04.230 Animal warden—Position established—Appointment.

There is established the position of Butte-Silver Bow animal warden. The animal warden and all assistant animal wardens shall be appointed by the chief executive. Butte-Silver Bow may enter into contractual relationships to provide this service. (Ord. 370 19, 1990: Ord. 133 2, 1981)

6.04.240 Impounded dogs or cats—Keeping of records and statement of costs.

Immediately upon impounding any dog or cat, the animal warden shall record in a book to be provided by Butte-Silver Bow and by him kept for that purpose, a description of such dog or cat and the date of impounding, the sex, color, breed, estimated age, distinguishing marks, if any, and upon final disposition

of such dog or cat the records shall show the disposition. The Humane Society shall keep an itemized statement of the cost of impounding and keeping such animal. The Humane Society shall submit to the council of commissioners at the first meeting thereof in each month an itemized statement of the requirements of this section. The humane society shall pay to the treasurer all moneys received for animals impounded, and shall attach this treasurer's receipt to the monthly statement rendered by the animal warden to the council of commissioners. (Ord. 370 20, 1990: Ord. 133 23, 1981)

6.04.250 Impounded dogs or cats—Notice of euthanization of animal—Mandatory fees for adoption of animal—Euthanization of dangerous animal.

A. Every dog or cat so impounded shall be held for a minimum of seventy-two hours unless claimed sooner by the owner, and, if not claimed within seventy-two hours by some person who pays the impounding fees as provided in this chapter, including applicable licensing fees for such dog, the animal may be disposed of by the animal warden.

B. Before the disposition by the animal warden of any dog or cat so impounded, the animal warden shall, within seventy-two hours before such disposition, post notice of such proposed disposition at the animal shelter describing the dog or cat to be disposed of and if a licensed dog, the name of the licensed owner. In the case of all licensed dogs, the animal warden, prior to the notice of disposition, shall take all reasonable means to determine the name and address of the licensed owner and shall notify in writing such licensed owner of the impounding and pending disposition of the dog so impounded, not less than seventy-two hours before disposition.

C. Unclaimed dogs or cats may be disposed of by euthanization or, at the discretion of the animal warden, the dog or cat may be turned over to the Humane Society for adoption.

D. Any humane society or publicly operated animal shelter located within the boundaries of Butte-

Silver Bow city-county may not offer for adoption, sale, or trade any cat or dog that has not been re-deemed by the owner unless the animal has been spayed or neutered, and received a rabies vaccination, DHLPP2CCV and bordatella.

E. Animals which are dangerous to the public safety as determined under the provisions of Sections 6.04.050 and 6.04.052, shall be euthanized by order of the city judge upon notice being given by the animal warden as provided in subsection B of this section and subject to the right of the owner to appear in any court action instituted to determine the viciousness and disposition of such animal. (Ord. 04-2 § 1, 2004; Ord. 00-20 § 1, 2000; Ord. 00-4 § 1, 2000; Ord. 370 § 21, 1990; Ord. 133 § 24, 1981)

**6.04.260 Impounded dogs or cats—
Collection of fees from owner.**

A. Before any dog or cat is released from the animal shelter, the owner shall provide proof that the dog or cat has been vaccinated for rabies and is currently immunized as required by Section 6.04.292 and shall pay an impounding fee of thirty-five dollars plus a fee of eight dollars for each day or fraction of a day that the dog or cat has been impounded and shall pay the full cost of any veterinary services incurred in treating the dog or cat while impounded, including the cost of a current rabies vaccination, if necessary.

B. In addition to those fees set forth in subsection A of this section, the owner shall obtain the license for such dog as provided in Section 6.04.150 unless satisfactory proof is produced that such license has been obtained. If the person claiming the dog does not produce satisfactory proof that the dog is licensed, such person shall post a bond in the amount of seventy-five dollars, which bond shall be returned to the person claiming the dog if satisfactory proof of licensing is furnished within four months of claiming the dog.

C. All forfeited bonds shall become the property of the Humane Society. (Ord. 00-20 § 2, 2000; Ord. 00-4 § 2, 2000; Ord. 370 § 22, 1990; Ord. 133 § 25, 1981)

6.04.270 Leash required—Penalty for violation.

It is unlawful for any person, owner or party in control of any dog within the jurisdictional area to allow the same to be loose off the owner's property or other property where the dog is kept, and the owners or persons in control of any dog are required to keep all dogs securely confined upon privately owned property, except that dogs may be allowed upon a street, alley or sidewalk when properly secured by a leash in the hands of a person able to control the dog. Upon conviction, the minimum fine for violation of this provision shall be made on a graduated basis respective to the licensed year as follows: first offense, twenty dollars; second offense, fifty dollars; third offense, one hundred dollars. (Ord. 138 § 4, 1981; Ord. 133 § 26, 1981)

6.04.275 Animal waste—Removal.

The owner of an animal shall be responsible for the immediate removal of any excreta deposited by his animal on any public walk, recreation area or private property. It shall be unlawful for the owner to fail to dispose of the excreta in a sanitary manner. (Ord. 370 § 23, 1990)

**6.04.280 Failure to have leash—
Impoundment.**

Any dog not secured by a leash or not securely confined upon privately owned property shall be taken and impounded by the animal warden, any of his assistants, or any law enforcement officer of Butte-Silver Bow and the same shall be impounded for the period otherwise provided in this chapter. Any dog impounded which is not claimed by the owner within the period prescribed in this chapter shall be disposed of by the animal warden as in other cases. (Ord. 138 § 5, 1981; Ord. 133 § 27, 1981)

6.04.292 Vaccination for rabies.

A. Dogs or Cats. The owner of every dog or cat kept, harbored or maintained within the city-county which is three months old or older shall, at such owner's expense, cause such dog or cat to be vaccinated for rabies by a licensed veterinarian. Except for

the first antirabies vaccine which be administered when the dog or cat is three months of age and has an effective term of twelve months, only vaccines with at least two-year duration of immunity may be used. The owner of any such dog or cat who shall for thirty days wilfully fail to have such dog or cat vaccinated is guilty of a misdemeanor. The veterinarian vaccinating such dog or cat shall give to the owner a rabies vaccination certificate and a metallic vaccination tag. The veterinarian shall retain a copy of the vaccination certificate for such period as the public health officer of the city-county shall prescribe. The owner of such dog when applying for the license as provided in Section 6.04.170 shall present either the vaccination tag or the original vaccination certificate as proof of vaccination.

B. **Livestock.** It is neither economically feasible nor justified from a public health standpoint to vaccinate all livestock against rabies. However, consideration should be given to the vaccination of livestock located in areas where wildlife rabies is epizootic, especially animals which are valuable and/or may have frequent contact with humans.

C. **Wild Animals.** Vaccination of wildlife is not recommended since no rabies vaccine is licensed for use in wild animals. Wild animals susceptible to rabies should not be kept as pets. Offspring of wild animals bred with domestic dogs or cats are considered wild animals. (Ord. 370 § 24, 1990)

6.04.294 Rabies—Post-exposure management—Impoundment procedure—Quarantine.

A. Any animal bitten or scratched by a wild, carnivorous mammal (or a bat) not available for testing should be regarded as having been exposed to rabies.

B. **Dogs and Cats.**

1. Every dog or cat which has been bitten by, or exposed to, any animal suspected to have been infected with rabies shall be immediately quarantined at a licensed veterinary hospital within the city-county.

2. Unvaccinated dogs or cats bitten by a rabid animal should be euthanized immediately. If the

owner is unwilling to have this done, the animal shall be confined in strict isolation at a licensed veterinary hospital for six months at the owner's expense. Any illness in the animal should be reported immediately to the local health department. If signs suggestive of rabies develop, the animal should be humanely killed, and its head removed and shipped under refrigeration for examination by a qualified laboratory designated by the local or state health department.

3. Dogs and cats that were currently vaccinated when bitten should be revaccinated immediately and if the animal appears to be healthy after ten days it may be released from the veterinary hospital but shall be confined and observed for ninety days. Any illness in the animal should be reported immediately to the local health department. If signs suggestive of rabies develop, the animal shall be humanely killed by a licensed veterinarian, and its head submitted as described above for rabies examination.

4. Any stray or unwanted dog or other animal that bites a person may be killed immediately and the head submitted as described above for rabies examination.

C. **Livestock.** Since all species of livestock are susceptible to rabies, and cattle and horses are among the most susceptible of all domestic animals to rabies infection, livestock bitten by a rabid animal and currently vaccinated with an antirabies vaccine approved by USDA for that species shall be revaccinated immediately and observed for ninety days. Unvaccinated livestock should be destroyed (slaughtered) immediately. If the owner is unwilling to have this done, the animal shall be kept under very close observation for six months.

The following are recommendations for owners of unvaccinated livestock exposed to rabid animals:

1. If the animal is slaughtered within seven days of being bitten, its tissues may be eaten without risk of infection, provided liberal portions of the exposed area are discarded. USDA meat inspectors will reject for slaughter any animal known to have been exposed to rabies within eight months.

2. Neither tissues nor milk from a rabid animal should be used for human or animal consumption. However, since pasteurization temperatures will inactivate rabies virus, drinking pasteurized milk or eating cooked meat does not constitute a rabies exposure.

D. Wild Animals. Wild animals bitten by a rabid animal shall be euthanized immediately unless the animal bitten was currently vaccinated with an antirabies vaccine approved by USDA for that species. If the bitten animal was currently vaccinated it shall be revaccinated immediately and placed in strict isolation for at least ninety days. A person bitten by any wild animal should immediately report the incident to a physician who can evaluate the need for antirabies treatment.

E. It shall be the duty of the animal warden to notify the local health department of every animal quarantined for observation for rabies, whether the animal is domestic or wild. If, after observation under the supervision of a licensed veterinarian and the local health department for the prescribed period, any such animal is adjudged free of rabies, the owner may reclaim the animal, upon payment of the regular impounding fees and upon compliance with licensing requirements. In the event that any animal under quarantine is suspected of being rabid, the animal should be humanely killed, and its head removed and shipped under refrigeration for examination by a qualified laboratory designated by the local or state health department. (Ord. 370 25, 1990)

6.04.296 Rabies diagnosis—Emergency control.

Upon the positive diagnosis of rabies infection of any animal in the city-county, whether wild or domestic, the public health officer shall forthwith call an emergency meeting of the Butte-Silver Bow city-county board of health, and the city-county board of health may issue a quarantine order, providing for the summary destruction of all animals (wild or domestic) known to have been exposed to rabies, or all unconfined animals, or may make such other orders as it deems necessary or expedient for the protection of the public. All orders issued by the city-county board

of health under this section shall have the same force and effect as any city-county law. (Ord. 370 26, 1990)

6.04.300 Enforcement authorized.

It shall be the duty of the animal warden and all law enforcement officers of Butte-Silver Bow to enforce the provisions of this chapter. The animal warden may take up and impound any nuisance, vicious or unlicensed dog or other animal. The animal warden or any law enforcement officer shall issue a notice to appear to the adult owner, if ascertainable, or file a complaint for all violations of the provisions of this chapter. (Ord. 133 29, 1981)

6.04.310 Power imposed to apply to deputies and other persons authorized by law.

Whenever a power is granted to or a duty is imposed upon the humane society, animal warden or other public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized pursuant to the law by the officer. (Ord. 133 3(L), 1981)

6.04.320 Furnishing notices to appear.

The director of public works shall provide the animal warden and law enforcement officers of Butte-Silver Bow with serially numbered notices to appear in triplicate, in book form, for notifying violators of the provisions of this chapter to appear and answer to charges for such violations. Both the animal warden and law enforcement officers shall be authorized to serve summons to appear in city court upon animal control violators. The director of public works shall, each month, report to the chief executive and council of commissioners the disposition made by the animal warden and the law enforcement officers of all forms issued to them. For this purpose, the director of public works or his representative shall have access to the necessary records of the animal warden, the law enforcement department and the city court of Butte-Silver Bow. Such reports shall be public records. (Ord. 133 30, 1981)

6.04.330 Violators to report within limited time.

The owner of any dog found in violation of the provisions of this chapter, for which a notice to appear has been issued, shall within seven days after issuance of a notice to appear deposit with the office of the parking commission cash bail in the amount designated by the police judge, and in accordance with the provisions of this chapter, for the type of violation indicated on the notice to appear to insure the appearance of the owner in the city court to answer the charge made against him by the notice to appear. Upon receipt of bail, the clerk of the parking commission shall issue a receipt therefor, and shall indicate on the receipt the date and time when the owner shall appear in the city court to answer the charge. If such owner fails to report to the office of the parking commission within seven days after the issuance of the notice to appear, the clerk of the parking commission shall forthwith have a complaint entered against the owner and secure issuance of a warrant for his arrest; provided, however, that the owner shall have the right at any time within the seven days after issuance of the notice to appear to pay into the office of the parking commission the sum so set by the police judge as cash bail as a voluntary payment in full satisfaction of the violation. The clerk of the parking commission shall issue a receipt in duplicate for such payment for such a violation of the provisions of this chapter and deliver the original of the receipt to the person making the payment. The duplicate of all receipts together with the total of money so paid into the office of the parking commission each day for violations of the provisions of this chapter shall be delivered by the clerk of the parking commission to the treasurer no later than the close of the business day following the date of receipt of such money by the parking commission, and the treasurer shall deposit the same to the credit of Butte-Silver Bow in a bank designated as an authorized depository of the funds of Butte-Silver Bow and credit the same to the general fund. (Ord. 133 31, 1981)

6.04.340 Violation—Penalty.

Any person violating any section of this chapter shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. It is unlawful for any person to violate any of the provisions of this chapter by doing any act forbidden or by failing to perform any duty imposed herein and any such act or omission shall be deemed a misdemeanor and jurisdiction for prosecution thereof shall be vested in the city court of Butte-Silver Bow.

A. Whenever a specific penalty is provided in this chapter for a particular violation of this chapter, then such penalty shall be imposed.

B. Whenever no penalty is specified for a particular violation of this chapter, then the penalty imposed shall be a fine not to exceed five hundred dollars or imprisonment in the county jail for a term not to exceed six months, or both. (Ord. 370 27, 1990: Ord. 133 32, 1981)

Chapter 6.08

ANIMAL KENNELS

Sections:

| | |
|-----------------|--|
| 6.08.010 | Definitions. |
| 6.08.020 | License—Fee—Issuance—Application. |
| 6.08.030 | Classes established—License fees. |
| 6.08.040 | Expiration of license. |
| 6.08.050 | Violation—Penalty. |

6.08.010 Definitions.

As used in this chapter, unless the context otherwise indicates, the following words shall have the meanings ascribed to them as follows:

A. “Animal” means any dog, cat or other animal over the age of six months.

B. “Owner” means any person owning, keeping or harboring any animal as defined in this section.

C. “Kennel” means any premises or property of any kind or description where a female dog, cat or other small female animal is kept for breeding pur-

poses, or where a litter is bred and kept for purposes of sale, or more than three adult dogs, cats or other small animals are kept or where more than two litters are bred annually. (Ord. 25 1, 1977)

6.08.020 License—Fee—Issuance—Application.

A. Any person maintaining a kennel within the area of Butte-Silver Bow shall pay a yearly license fee for maintaining such kennel.

B. Issuance of any kennel license shall be subject to the right of inspection of the kennel by the animal warden, health officer, sanitarian or any law enforcement officer of Butte-Silver Bow together with the premises thereof.

C. Application for such kennel license shall be made to the treasurer and initial application must be accompanied by the written consent of at least seventy-five percent of all persons in possession of premises within one hundred feet of the proposed kennel and accompanied by a deposit of a license fee as provided in this chapter, which deposit shall be returned to the applicant if the license is not issued. All applications for licenses shall be submitted to the council of commissioners for approval. The application for license shall state the name and address of the owner, the location of the proposed kennel, the number of animals therein, and shall include the endorsement of the code enforcement officer showing that the premises sought to be licensed as a kennel does not violate any zoning ordinance or resolution; provided, that such endorsement shall not be required on an application for renewal of license. (Ord. 25 2, 1977)

6.08.030 Classes established—License fees.

A. There shall be two classes of kennels as follows:

1. A class one kennel shall be one in which more than three but no more than five adult dogs, cats or other small animals are kept or where not more than three litters are bred annually. The animal license fee for the class one kennel shall be twenty-five dollars.

2. A class two kennel shall be one in which more than five adult dogs, cats or other small animals are kept and/or more than three litters are bred annually. The annual license fee for a class two kennel shall be fifty dollars. No class two license shall be issued until the premises to be used for such purposes have been inspected and approved by the animal warden and by the health department.

B. Every person, firm or corporation licensed under this chapter shall be subject to regulation, inspection, control and supervision by the animal warden and the health department. (Ord. 25 3, 1977)

6.08.040 Expiration of license.

Each license issued under this chapter shall expire on the thirty-first day of December of the year of its issuance. (Ord. 25 4, 1977)

6.08.050 Violation—Penalty.

Any person violating any section of this chapter shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. (Ord. 25 5, 1977)

Chapter 6.12

CARE, KEEPING AND SALE OF ANIMALS AND DOMESTIC FOWL

Sections:

- 6.12.010 Jurisdictional area.**
- 6.12.020 Swine, goats, rabbits and fowl.**
- 6.12.030 Offensive barns prohibited.**
- 6.12.040 Keeping apiary prohibited.**
- 6.12.050 Animal fights prohibited.**
- 6.12.060 Raising mice or rats.**
- 6.12.070 Sale of baby fowl.**
- 6.12.080 Violation—Penalty.**

6.12.010 Jurisdictional area.

Unless specified otherwise, the provisions of this chapter shall apply to that area defined as the Butte-Silver Bow fire protection services district more particularly described in subsection (h) of Section 7.03 of the Charter of the government of Butte-Silver

Bow. In addition, all uses permitted by this chapter must comply with the Butte-Silver Bow zoning ordinance. (Ord. 47 1, 1977)

6.12.020 Swine, goats, rabbits and fowl.

The keeping of swine, goats, rabbits and fowl within the jurisdictional boundaries shall be limited to lot sizes of five acres or more in area, with the following exceptions:

A. Swine, goats, rabbits and fowl may be brought into the jurisdictional area for sale at stock sale yards for slaughter plants and approved livestock shows and fairs.

B. One female rabbit may be allowed in an area of nine thousand square feet.

C. One goat may be allowed in an area of twenty thousand square feet.

D. Fowl, not to exceed a flock of twenty-five, may be kept in an area of twenty thousand square feet. (Ord. 47 2, 1977)

6.12.030 Offensive barns prohibited.

It is unlawful for any person within the jurisdictional area to keep or maintain any barn, shed, pen or other structure in an unsanitary manner. The Butte-Silver Bow health officer or his authorized representative is given the authority to order the removal of any filth or offensive material that is or may become injurious to the health and welfare of a neighborhood. The owner of such premises shall bear the cost of the removal and abatement of such nuisance. (Ord. 47 3, 1977)

6.12.040 Keeping apiary prohibited.

No person, firm or corporation shall keep or maintain, on any premises, property or place within the jurisdictional area, hives or colonies of bees. Notwithstanding the above, all apiaries in existence as of the effective date of the ordinance codified in this chapter shall be permitted to continue. (Ord. 47 4, 1977)

6.12.050 Animal fights prohibited.

No person within Butte-Silver Bow shall, by agreement or otherwise, arrange for, plan or encour-

age any dog fight, cock fight or a fight of any kind between animals. Upon conviction thereof, such person shall be deemed guilty of a misdemeanor. The sheriff and law enforcement officers shall prevent or stop such fights, and arrest all persons encouraging, aiding or abetting the same. (Ord. 47 5, 1977)

6.12.060 Raising mice or rats.

It is unlawful for any person, firm or corporation to sell, offer for sale, harbor, raise, or give away mice or rats as pets, toys, premiums, novelties, or for any other purpose except as hereinafter set forth; or to bring or transport the same into Butte-Silver Bow. This section shall not be construed to prohibit the keeping of rats or mice in proper facilities by people engaged in a legitimate scientific research project. (Ord. 47 6, 1977)

6.12.070 Sale of baby fowl.

It is unlawful for any person, firm or corporation to sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl, under three weeks of age, or rabbits under two months of age, as pets, toys, premiums or novelties; or to color, dye, or stain or otherwise change the natural color of baby chickens, ducklings, or other fowl, or rabbits; or to bring or transport them into Butte-Silver Bow. This section shall not be construed to prohibit the sale or display of baby chickens, ducklings, or other fowl, or rabbits by properly licensed establishments. (Ord. 47 7, 1977)

6.12.080 Violation—Penalty.

Any person violating any section of this chapter shall be guilty of a misdemeanor and jurisdiction of such violations shall be in the city court of Butte-Silver Bow. (Ord. 47 9, 1977)

Chapter 6.16

**LIVESTOCK AND DOMESTICATED
HOOFED ANIMALS**

Sections:

6.16.010 Running at large.

- 6.16.020 Animal shelter provided.**
- 6.16.030 Impounding animals at large.**
- 6.16.040 Notice of impounding.**
- 6.16.050 Notice to be posted.**
- 6.16.060 Record and statement of cost of impounded animals.**
- 6.16.070 Proceeds of sale.**
- 6.16.080 Right of redemption.**
- 6.16.090 Furnishing materials to pound.**
- 6.16.100 Prohibited acts.**
- 6.16.110 Violation—Penalty.**

6.16.010 Running at large.

It is unlawful for an person owning or having in charge any commonly domesticated, hoofed animals or livestock, to allow the same to run at large within the following described jurisdictional area within the city and county of Butte-Silver Bow excluding the territorial limits of the city of Walkerville: Beginning at the northwest corner Section 2, T. 3 N., R. 8 W., thence easterly to northeast corner Section 5, T. 3 N., R. 7 W.; thence southerly to northwest corner Section 9, T. 3 N., R. 7 W.; thence easterly to northeast corner Section 10, T. 3 N., R. 7 W.; thence southerly to southeast corner Section 22, T. 2 N., R. 7 W.; thence westerly to southwest corner Section 19, T. 2 N., R. 7 W.; thence northerly to the northwest corner Section 19, T. 2 N., R. 7 W.; thence westerly to southwest corner Section 14, T. 2 N., R. 8 W.; thence northerly to southwest corner, Section 35, T. 3 N., R. 8 W.; thence westerly to southwest corner Section 34, T. 3 N., R. 8 W.; thence northerly to northwest corner Section 27, T. 3 N., R. 8 W.; thence westerly to southwest corner Section 20, T. 3 N., R. 8 W.; thence northerly to northwest corner Section 17, T. 3 N., R. 8 W.; thence easterly to northwest corner Section 14, T. 3 N., R. 8 W.; thence northerly to the point of beginning. (Ord. 188 1, 1983: Ord. 24 2, 1977)

6.16.020 Animal shelter provided.

The animal warden shall provide a suitable place to be kept as an animal shelter, where all animals taken up shall be impounded until otherwise disposed of in pursuance of this chapter. (Ord. 24 3, 1977)

6.16.030 Impounding animals at large.

The animal warden shall take up and impound all commonly domesticated hoofed animals or other livestock found running at large within the jurisdictional area of Butte-Silver Bow. (Ord. 24 4, 1977)

6.16.040 Notice of impounding.

A. When any livestock or commonly domesticated hoofed animals are impounded, seized, restrained or held, personal notice shall be served upon the owner, or, if such owner or his address is unknown, such notice shall be served upon the Director of the State of Montana of Livestock, Brands Enforcement Division, personally, or by registered mail, postage prepaid, properly addressed and placed in the United States Post Office for at least eight days before the day fixed for the disposition of said stock. Such notice shall be in writing and shall give the number, description, marks and brands of the stock, when impounded, seized, restrained or held, with the reasons therefor, together with the amount of charge, if any, which shall be reasonable and in no case exceed the impounding fees as specified in this section and, in addition thereto, the actual cost of holding, and costs in the event of sale, and what disposition will be made of said stock if such charges are not paid, and also when and where such disposition shall be made.

B. The impounding fee for each animal so impounded shall be an amount which reasonably reflects the cost which Butte-Silver Bow incurs in impounding said livestock or commonly domesticated hoofed animal and a daily fee for the maintenance and upkeep of any such impounded animal shall be assessed against the owner; said fee shall be based upon the actual costs which Butte-Silver Bow incurs in maintaining said animal. (Ord. 24 5, 1977)

6.16.050 Notice to be posted.

The animal warden shall cause to be posted in three public places within Butte-Silver Bow a notice describing any livestock or commonly domesticated hoofed animal impounded for a period of forty-eight hours without being redeemed as mentioned below in this section and fixing the date of sale, if not re-

deemed, at a time not less than eight days from date of impounding, which notice shall be in substance as follows:

“IMPOUNDMENT

Taken up and impounded in the Animal Shelter of Butte-Silver Bow the following described animals: _____, which, unless redeemed, will be sold at public auction for cash to the highest bidder, at said Animal Shelter, at the hour of _____ o'clock in the forenoon, on the _____ day of _____, 19__.”
(Ord. 24 6, 1977)

6.16.060 Record and statement of cost of impounded animals.

The animal warden shall keep a record of all livestock or commonly domesticated hoofed animals impounded, showing the names of the owner or owners, if known, a brief description of the animals, whether redeemed or sold, and if sold, the amount received therefor and the name of the purchaser. There shall also be kept an itemized statement of the cost of impounding and keeping each animal. He shall submit to the council of commissioners at the first meeting thereof in each month an itemized statement of the requirements of this section. The animal warden shall pay to the treasurer all moneys received for animals impounded or sold, and shall take his receipt therefor, which shall be attached to the monthly statement rendered by the director of the council of commissioners. (Ord. 24 7, 1977)

6.16.070 Proceeds of sale.

When the proceeds of the sale of any livestock or commonly domesticated hoofed animal exceed the amount of its sustenance, together with the cost of impounding said animal, the owner of such animal or animals shall, on presenting to the council of commissioners satisfactory evidence of his right thereto, be entitled to a warrant on the treasurer for such excess. (Ord. 24 8, 1977)

6.16.080 Right of redemption.

The owner of any livestock or commonly domesticated hoofed animal which is impounded under the provisions of this chapter shall have the right to redeem the same at any time prior to sale thereof by paying to the animal warden the impounding fee and the actual cost of holding said animal to and including the day of redemption.

The owner of any livestock or commonly domesticated hoofed animal which is impounded and sold under the provisions of this chapter shall have the right to redeem the same within ten days after the sale by paying to the purchaser or other person who has acquired the same from the purchaser the amount for which such animal sold, and in addition the actual costs the purchaser has incurred in maintaining such animal. (Ord. 24 9, 1977)

6.16.090 Furnishing material to pound.

It shall be the duty of the animal warden to furnish such necessary forage as shall or may be necessary for the sustenance of any and all livestock or commonly domesticated hoofed animals impounded, and to keep an account thereof, which he shall report monthly to the council of commissioners. (Ord. 24 10, 1977)

6.16.100 Prohibited acts.

It is unlawful for any person to break open the pound, or turn loose any livestock or commonly domesticated hoofed animals, or otherwise release any animal impounded therein or to hinder, obstruct or prevent the animal warden from impounding any animal liable to be impounded. (Ord. 24 11, 1977)

6.16.110 Violation—Penalty.

Any person violating any section of this chapter shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. (Ord. 24 12, 1977)

Chapter 6.20

WILD ANIMALS

Sections:

- 6.20.110 Definitions.**
- 6.20.120 Provisions for keeping of wild animals.**
- 6.20.130 Wild animal permit—Required.**
- 6.20.140 Wild animal permit—Fee.**
- 6.20.150 Wild animal permit—Date due—Penalty.**
- 6.20.160 Wild animal permit—Information required on application.**
- 6.20.170 Failure to use secure temporary enclosure for transportation of wild animal—Impoundment.**
- 6.20.180 Euthanasia when wild animal bites a person or domestic animal.**
- 6.20.190 Escaped wild animals—Notification by owner.**
- 6.20.200 Escaped wild animals—Impoundment.**
- 6.20.210 Provisions for keeping of wild reptiles.**
- 6.20.220 Keeping of venomous reptiles prohibited—Exceptions—Penalties.**
- 6.20.230 Animal control division—Powers.**
- 6.20.240 Violation—Penalty.**

6.20.110 Definitions.

A. A “wild animal” is an animal which is wild by nature and not customarily domesticated and includes any warm-blooded mammal which is known to carry or be susceptible to the rabies virus and cannot be effectively vaccinated against that virus with any vaccine. This definition does not include birds or small rodents commonly used for educational or experimental purposes or for pets.

B. Offspring of wild animals bred with domestic dogs or cats are considered wild animals. This includes “coyote,” a member of the species *canis latrans*, including any canine hybrid, and “wolf,” a member of the species *canis lupis* including any canine hybrid.

C. For the purpose of this chapter, animals to be included in those wild animal regulations to be promulgated by the chief executive, on behalf of the Butte-Silver Bow animal control division pursuant to Section 7-1-4126, MCA, shall include:

1. Marsupials (opossums, kangaroos);
2. Chiroptera (bats);
3. Endentata (anteaters, armadillos);
4. Rodents (porcupines, squirrels); and
5. Carnivora (wolves, coyotes, foxes, bobcats, lynx, lions, bears, skunks, raccoons), or any hybrid wild animal.

D. A “wild reptile” is a reptile which is wild by nature and not customarily domesticated and includes any of a group of cold-blooded vertebrates that crawl on their bellies, as snakes, or creep on short, stubby legs, as lizards, crocodiles and alligators. This definition does not include small nonvenomous reptiles commonly used for educational or experimental purposes or for pets.

E. For the purposes of this chapter, reptiles to be included in those wild reptile regulations to be promulgated by the chief executive, on behalf of the Butte-Silver Bow animal control division pursuant to Section 7-1-4126, MCA, shall include:

1. Nonvenomous lacertillians (lizards);
2. Nonvenomous serpentes (snakes); and
3. Crocodillians (alligators, crocodiles). No persons shall keep a venomous reptile within the city and county of Butte-Silver Bow, state of Montana, except as set out in Section 6.20.220. (Ord. 428 1, 1992; Ord. 300 2, 1987)

6.20.120 Provisions for keeping of wild animals.

A. Confinement and Control. No person shall have, own, keep, house, transport or maintain any wild animal within the city and county of Butte-Silver Bow, state of Montana, unless adequate provisions are made for its confinement and control to insure the maintenance and public peace, health and safety.

B. Certificate of Approval—Wild Animal Enclosure. Each person applying for a wild animal permit as set out in this chapter must first obtain a cer-

tificate of approval of wild animal enclosure from the animal control division for the proposed enclosure to house or transport the wild animal. Before the certificate of approval of wild animal enclosure may be issued, the proposed enclosure must meet those requirements set out in subsection (1) of this section.

1. Housing Enclosure—Construction Standards. Each housing enclosure must meet the following requirements:

- a. Must be constructed of chain-link steel fence or similar material with secure see-through sides at least eight feet high; and
- b. Must have a bottom constructed of portland cement concrete or similar material no less than four inches thick, and the sides of the enclosure shall be permanently attached to the bottom; and
- c. Must have a secure top which is permanently attached to the sides of the enclosure; and
- d. Must be constructed of such material and closed in such a manner that a wild animal cannot exit the enclosure on its own; and
- e. Must have a perimeter fence located not less than four feet and no more than six feet away from the actual enclosure holding the wild animal. The perimeter fence must be constructed with secure see-through sides at least eight feet high.

2. Housing Enclosure—Maintenance Standards.

a. Each housing enclosure where a wild animal is to be kept must be periodically inspected by the Butte-Silver Bow animal control division and the Butte-Silver Bow health department. Each housing enclosure must provide adequate exercise area and sleeping quarters. Proper temperature control and ventilation for the particular species must be provided in both areas. Each housing enclosure must be kept locked and designed so that no one can enter or place appendages in the enclosure. Each housing enclosure must be constructed so as to prevent the wild animal from escaping. Each housing enclosure must be kept in good repair to prevent both escape and injury to the wild animal. Each housing enclosure must have a water container which is secured so as to prevent its being overturned. Each housing enclosure must be disinfected daily. Surfaces must be of an impervious material to allow for disinfecting.

b. Any person keeping a wild animal contrary to the provisions of this subsection shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow.

c. Any wild animal kept contrary to the provisions of this section shall be impounded by the animal control division and held as provided in Section 6.20.200.

3. Wild Animal Enclosure—Transportation Requirements.

a. As a condition of obtaining a wild animal permit as provided in this chapter, each permittee must agree that at all times, when a wild animal is away from its wild animal housing enclosure, the permittee shall keep the wild animal in a “secure temporary enclosure,” as that term is defined in subsection (B)(3)(b) of this section.

b. Secure Temporary Enclosure. A “secure temporary enclosure” is a secure enclosure used for purposes of transporting a wild animal and which includes a top and bottom permanently attached to the sides except for a door for removal of the wild animal. The secure temporary enclosure must be constructed of such material and the door constructed in such a manner so the door can be closed and secured to prevent the wild animal from exiting the enclosure on its own.

C. Food and Water. Each wild animal must be provided with continuous clean water and must be fed a diet approved by a veterinarian at least two times per day.

D. Exemptions. The standards set out in this section for keeping wild animals do not apply to:

1. Any zoological garden accredited by the American Association of Zoological Parks and Aquariums;
2. Appropriately licensed theatrical exhibits or circuses;
3. Federally licensed research institutions;
4. Any government agency or its employees who use the wild animals for an agency-related education, propagation or behavior program;
5. Anyone holding a valid rehabilitation permit from the Montana Department of Fish, Wildlife and Parks, but such exception is granted only for animals

which are in rehabilitation and are scheduled to be released to the wild; or

6. Anyone holding a valid license for falconry or fur farming (peltage). (Ord. 428 2, 1992: Ord. 300 1, 1987)

6.20.130 Wild animal permit—Required.

It is unlawful for any person, firm or corporation to have, own, keep or maintain control of any wild animal in Butte-Silver Bow unless than person, firm or corporation obtains a wild animal permit as hereinafter provided. Wild animal permits may be obtained from the treasurer upon presentation of:

A. A current wild animal health certificate (Section 6.20.160(B));

B. A certificate of approval of wild animal enclosure (Section 6.20.120(B));

C. A completed wild animal permit application form (Section 6.20.160(A)). (Ord. 428 3, 1992)

6.20.140 Wild animal permit—Fee.

The annual permit fee for keeping each wild animal shall be three hundred dollars. A separate wild animal permit is required for each wild animal kept as defined in this chapter. (Ord. 428 3, 1992)

6.20.150 Wild animal permit—Date due—Penalty.

A. All permits granted under this chapter shall be due and payable annually on the first business day of January. If the permit fee provided for in Section 6.20.140 is not paid on or before the first business day of February, a penalty shall be imposed, and the permit fee shall be increased to five hundred dollars. All wild animal permits issued under the provisions of this chapter shall expire on December 31st of each year; provided the penalty fee shall not be imposed if:

1. The applicant has been a resident of Butte-Silver Bow for a period not exceeding thirty days; or
2. The applicant has owned, kept or been in control of the wild animal for a period not exceeding thirty days.

B. Before a wild animal permit may be issued, the applicant must present a completed application

form, along with the necessary certificates, as provided in Section 6.20.160. (Ord. 428 5, 1992)

6.20.160 Wild animal permit—Information required on application.

The owner shall, at the time of application to the treasurer for a wild animal permit, complete the following requirements:

A. State upon the application form the name and address of the owner, and the species (or percent hybrid species), color, sex and age of the wild animal;

B. Present a health certificate completed within thirty days of application and issued by a veterinarian. Such certificate must list the name and address of the owner, and the species (or percent hybrid species), color, sex and age of the wild animal and must state that the animal is free of symptoms of infectious disease or is under treatment. A new health certificate must be provided each time the permit is renewed;

C. Present a certificate of approval of wild animal enclosure issued by the animal control division;

D. Submit the proper permit fee, based upon the number of wild animals kept and the penalty, if any, to be applied. (Ord. 428 6, 1992)

6.20.170 Failure to use secure temporary enclosure for transportation of wild animal—Impoundment.

Any wild animal which is taken from its wild animal housing enclosure described in Section 6.20.120(B)(1) and (2), must be confined in a secure temporary enclosure as defined in Section 6.20.120(B)(3)(b), and if such wild animal is not so confined it shall be taken and impounded by any employee of the animal control division or any law enforcement officer of Butte-Silver Bow, and such wild animal shall be impounded for the period otherwise provided in this chapter. Any wild animal impounded which is not claimed by the owner within the period prescribed in this chapter shall be disposed of by the animal control division as in other cases. (Ord. 428 7, 1992)

6.20.180 Euthanasia when wild animal bites a person or domestic animal.

A. There is no rabies vaccine licensed for use in wild animals.

B. Any wild animal which has bitten or scratched any person or any domestic animal must be immediately surrendered to the Butte-Silver Bow animal control division for euthanasia and testing by a qualified laboratory designated by the local department of health. (Ord. 428 8, 1992)

6.20.190 Escaped wild animals—Notification by owner.

Any person keeping or maintaining a wild animal that escapes from its confinement shall immediately notify the animal control division of such escape. If any wild animal that is held in captivity or that escapes from such captivity causes any injury to any person or damage to the personal property of any person, compensation for such damage must be paid by the person holding or who held the wild animal in captivity. (Ord. 428 9, 1992; Ord. 300 5, 1987)

6.20.200 Escaped wild animal—Impoundment.

A. Wild animals found running loose may be impounded in accordance with the provisions of Section 6.04.220. However, neither the city-county nor its officers, agents or employees shall be liable for injury to or disease incurred by any wild animal, while such wild animal is being captured, transported or impounded. Wild animals, when found to be at large and injuring, damaging or threatening to injure or damage any person or property, will be deemed to be a public nuisance and may be summarily destroyed without liability resulting to the city-county, its officers, agents or employees.

B. An owner or keeper of any impounded wild animal may reclaim the animal upon the payment to the animal shelter of the actual cost to the city-county of the capture, impounding, boarding and care of such wild animal and upon posting the established bond. No wild animal which has injured or damaged or threatened to injure or damage any person or prop-

erty may be released without written approval of the police judge.

C. Impounding and boarding fees shall be paid to the animal shelter. Cash bail in accordance with established bond schedules may be posted at either the animal shelter or the office of the parking commission in lieu of appearance in city court for violation. (Ord. 428 10, 1992; Ord. 300 6, 1987)

6.20.210 Provisions for keeping of wild reptiles.

A. No person shall have, own, keep or maintain control of any wild reptile within the city and county of Butte-Silver Bow, state of Montana, unless adequate provisions are made for its confinement and control to insure the maintenance of public peace, health and safety.

B. Each wild reptile kept within the city-county shall be confined and maintained in accordance with those rules adopted pursuant to Section 6.20.230.

C. No person shall keep a venomous reptile except as provided in Section 6.20.220. (Ord. 428 11, 1992)

6.20.220 Keeping of venomous reptiles prohibited—Exceptions—Penalties.

For the purposes of this chapter, no person shall have, own, keep or maintain control of any venomous reptiles, such as venomous: (1) lacertillians (lizards, such as gila monsters); or (2) serpentes (snakes, such as vipers, pit vipers) within the city and county of Butte-Silver Bow, state of Montana, except as set out in subsection (A) below.

A. Exceptions. The prohibition set out in this section against keeping venomous reptiles does not apply to:

1. Any zoological garden accredited by the American Association of Zoological Parks and Aquariums;
2. Appropriately licensed theatrical exhibits or circuses;
3. Federally licensed research institutions; and
4. Any government agency or its employees who use

the venomous reptiles for an agency-related education, propagation or behavior program.

B. Any person keeping a venomous reptile contrary to the provisions of this section shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow.

C. Any venomous reptile kept contrary to the provisions of this section shall be impounded by the animal control division and disposed of in a humane manner. (Ord. 428 12, 1992)

6.20.230 Animal control division—Powers.

The chief executive may promulgate rules on behalf of the animal control division pursuant to Section 7-1-4126, MCA, regulating the size and type of cage or other means of confinement, the distance from the place of confinement to adjoining property and any other regulations deemed reasonably necessary by the animal control division for the keeping of wild animals and wild reptiles and to insure the maintenance of humane, sanitary conditions and the safety of persons and property. A copy of the rules and regulations shall be available in the office of the clerk and recorder and the animal control division office. In applying the regulations to a given situation, the animal control division shall take into consideration the type, nature, disposition and training of the wild animal or wild reptile involved. (Ord. 428 13, 1992; Ord. 300 3, 1987)

6.20.240 Violation—Penalty.

Except as provided in Sections 6.20.120(B)(2) or 6.20.220, any person failing to comply with any provision of this chapter or any rule or regulation of the animal control division within ten days after notice of violation of such provision, rule or regulation shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. (Ord. 428 14, 1992; Ord. 300 4, 1992)

Chapter 6.24

PIGEONS (COLUMBIDAE), WILD PIGEONS AND WILD BIRDS

Sections:

| | |
|-----------------|---|
| 6.24.010 | Definitions. |
| 6.24.020 | Purpose. |
| 6.24.030 | Powers and duties. |
| 6.24.040 | Scope. |
| 6.24.050 | Pigeon loft maintenance. |
| 6.24.060 | Wild pigeon and wild bird control. |
| 6.24.070 | Notice. |
| 6.24.080 | Enforcement. |
| 6.24.090 | Right to appeal. |
| 6.24.100 | Penalty. |

6.24.010 Definitions.

For the purpose of these regulations, and unless defined in other sections of these regulations, the following terms, phrases and words shall have the following meanings:

A. “City-county” means the local government of the city and county of Butte-Silver Bow, Montana and includes all of that area within its geographical borders.

B. “Department” means the Butte-Silver Bow city-county health department.

C. “Director” means the Butte-Silver Bow city-county health department director or his authorized representative.

D. “Dwelling” means any building or structure or part thereof that is intended or used for human habitation, but not including a garage, carport, porch or other nonhabitable parts of a dwelling.

E. “Nuisance” means unlawfully doing any act which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, as set out in Section 27-30-101, MCA.

F. “Owner” means any person who alone or jointly or severally with others:

1. Has legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

2. Has charge, care or control of premises, dwelling or dwelling unit, as legal or equitable owner, agent of the owner, lessee, or is a personal

administrator, trustee or guardian of the estate of the owner.

G. "Person" means any individual, public or private corporation and its officers, partnership, association, firm, trustee, personal representative of an estate, the state or its departments, institution, bureau, agency, city-county, political subdivision or any legal entity recognized by law.

H. "Pigeon" means any bird belonging to the family Columbidae, except those members of the family Columbidae whose taking or keeping is subject to regulation by the United States Government or the Montana Department of Fish, Wildlife and Parks.

I. "Pigeon loft" means any structure, building or facility used to keep, house, raise, breed, care or maintain pigeons.

J. "Wild pigeon" means any pigeon that is not banded with a number-bearing pigeon band or not housed in a pigeon loft.

K. "Wild bird" means:

1. Starling, *Sturnus vulgaris*;
2. English sparrow, *Passer domesticus*; or
3. Any other bird not owned by a person and confined. (Ord. 386 1 (part), 1990)

6.24.020 Purpose.

It is the purpose of these regulations to regulate the keeping, breeding, raising, and harboring of pigeons, wild pigeons, and wild birds in Butte-Silver Bow city-county and its municipalities in a way that will protect and promote the public health, safety, and welfare; prevent the spread of disease; prevent the creation of nuisances and prevent damage to property. (Ord. 386 1 (part), 1990)

6.24.030 Powers and duties.

The department, by the director, shall be responsible for the administration and enforcement of these regulations and in addition to any other powers vested in it by law, shall:

A. Make inspections of any pigeon loft, place or property where pigeons are kept or placed where wild pigeons or wild birds or both roost, nest or harbor;

B. Issue orders as necessary to effect the purpose of these regulations;

C. Do any and all legal acts necessary for the successful enforcement of these regulations. (Ord. 386 1(part), 1990)

6.24.040 Scope.

A. It shall be unlawful for any person not to comply with any rule or order promulgated by the department in implementing or enforcing these regulations unless expressly waived by these regulations.

B. These regulations shall not be construed to give a person permission to keep pigeons if said harborage is contrary to other laws or protective covenants. (Ord. 386 1 (part), 1990)

6.24.050 Pigeon loft maintenance.

A. A pigeon loft shall comply with applicable zoning laws.

B. Each pigeon loft shall be constructed of a material that will comply with the cleaning requirements of these regulations.

C. Each pigeon loft shall be capable of retaining the pigeons therein to prevent escape.

D. Each pigeon loft shall be operated and maintained clean and sanitary to prevent insect or rodent propagation or conditions for the transmission of disease and shall meet the following additional requirements:

1. The pigeon loft shall be regularly cleaned to prevent the creation of odors and insect and rodent propagation and to comply with all other provisions of these regulations.

2. All waste material shall be removed and properly disposed of and the property kept free of litter, trash or garbage as provided in the department's solid waste regulations and other applicable ordinances and laws.

3. Odors, nuisances and vermin-producing conditions shall be minimized by regular cleaning and the reasonable use of insecticides or other chemicals as directed by the department.

4. Feed shall be stored and used in a way that prevents rodent attraction and propagation.

E. Any pigeon with a communicable disease or that is otherwise ill shall be properly isolated from other pigeons and the public to prevent further exposure to the disease or illness.

F. Pigeons shall not be allowed by the owner or keeper to perch or linger on the property or buildings of others.

G. Pigeons shall be confined to an approved pigeon loft at all times with the exception of controlled exercise periods. For purposes of this regulation "controlled exercise periods" shall mean those periods not more than twice per day while the pigeons are flying and not more than thirty minutes after alighting from flight. Pigeons shall not be permitted to come and go at will from a pigeon loft, but must re-enter the pigeon loft and be prevented from escape within thirty minutes of alighting after flight. (Ord. 386 1 (part), 1990)

6.24.060 Wild pigeon and wild bird control.

A. It is unlawful for the owner of any property to permit wild pigeons or wild birds to roost or harbor thereon if a nuisance is created or to the extent the public health is threatened. The property owner shall be responsible for the control of such pigeons or wild birds and the maintenance of roosting or harboring areas in a clean and sanitary condition.

B. It is unlawful for any person to feed wild pigeons or wild birds as defined herein at any place within the city-county.

C. Building ledges, windows, porticos, doors, ventilators, steeples, towers, eaves and other areas where wild pigeons or other wild birds roost, nest or harbor shall be cleaned as often as necessary to prevent the accumulation of feces or the creation of an odor.

D. It is the responsibility of the property owner to use reasonable means to prevent the roosting, nesting or harboring of wild pigeons or wild birds on any building, home or other structure if the department determines a nuisance, odor or a health hazard exists. Such means may include, but not necessarily be limited to, wild pigeon, starling or English sparrow egg and nest removal, trapping, screening or the elimination of roosting areas. (Ord. 386 1 (part), 1990)

6.24.070 Notice.

A. Department to Notify Owner(s) or Other Person(s) of Violations. If the director has inspected any premises and has found and determined that the property is in violation of these regulations or has reasonable grounds to believe that there has been a violation of any part of these regulations, he shall give notice of the violation(s) to the owner(s) or other responsible person(s) thereof.

B. Department to Issue Written Notice of Violation(s). Prior to initiating a court complaint for the violation of these rules and regulations the director shall issue a notice pursuant to subsection A of this section and shall:

1. Describe the property;
2. Give a statement of the cause for its issuance;
3. Set forth an outline of the remedial action that complies with the provisions of these regulations; and
4. Set a reasonable time for the performance of any required remedial act.

C. Department to Serve Notice. The director shall serve notice upon the owner(s) of the property or other responsible person(s) pursuant to subsection A of this section. Service shall be deemed complete if the notice is served in one of the following ways:

1. Served in person;
2. Sent by certified mail to the last known address of the owner(s) or other responsible person(s); or
3. Published in a newspaper of general circulation. (Ord. 386 1 (part), 1990)

6.24.080 Enforcement.

A. Department to Ensure Compliance. It shall be the duty of the director, upon the presentation of proper credentials, to make inspections of any property as is necessary to ensure compliance with these regulations.

B. Inspection Made with Consent. Departmental inspections may be made with the consent of the owner(s) or other responsible person(s). If consent is not granted, a search may be made pursuant to an

administrative search warrant issued by a court of competent jurisdiction.

C. Owner(s) May Request a Factual Report of Inspections. Upon request, the owner(s) or other responsible person(s) of any property shall receive a report setting forth all facts found that relate to his compliance status. (Ord. 386 1 (part), 1990)

6.24.090 Right to appeal.

Within ten calendar days after the department has given a person a notice of violation(s), any person(s) aggrieved by the notice may request in writing a hearing before the department. The hearing shall take place within ten calendar days after the request is received. A written notice of the director's final determination shall be given within ten calendar days after adjournment of the hearing. The director may sustain, modify or reverse the action or order. (Ord. 386 1 (part), 1990)

6.24.100 Penalty.

A. Any person who is guilty of violating any of the provisions of these rules and regulations, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a misdemeanor. Upon conviction, the minimum fine for violation of any provision shall be made on a graduated basis within a two-year time period as follows: first offense, fifty dollars; second offense, one hundred dollars; third offense or subsequent offense, two hundred dollars.

B. Each day such violation is committed or permitted to continue shall constitute a separate violation.

C. The county attorney may initiate legal action, civil or criminal, requested by the department to abate any condition that exists in violation of these rules and regulations.

D. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the department in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard or sanitation violation. (Ord. 386 1 (part), 1990)